

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KATHERINE J. HARRIS,

Plaintiff,

vs.

R. JAMES NICHOLSON,
Secretary, Department of Veterans'
Affairs, et al.,

Defendants.

Case No. 4:06CV463 CDP

ORDER

Defendants have filed a motion for summary judgment, and plaintiff (acting pro se) has filed a response. Plaintiff has also filed a motion for appointment of counsel.

Plaintiff's motion for appointment of counsel fails to set forth any information regarding her need for counsel at this stage of her case. Although she has written on the form that illness has made it impossible for her to proceed without counsel, she has not explained that statement. She obviously was able to respond to the show cause order, and at this point, I see no reason to appoint counsel. Therefore, I will deny the motion for appointment of counsel.

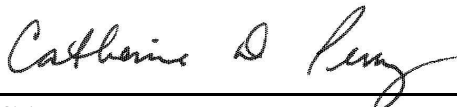
Plaintiff's response to the previous order stated that she would prove certain things, and also asked that she be granted summary judgment. Plaintiff's response

does not set forth any evidence that refutes or contradicts the evidence submitted by the defendants. At this stage in the litigation, plaintiff cannot merely make statements about what her evidence “will show” at trial. She is required to put forward specific evidence that refutes the claims made by the defendants. I will give plaintiff one more opportunity to establish that defendants are not entitled to summary judgment based on the undisputed facts in this case. From the evidence defendants have produced, it is clear that plaintiff is certainly not entitled to summary judgment. **Plaintiff is warned that if she does not provide specific evidence and argument showing that there are genuine disputes of material fact, defendant’s motion for summary judgment may be granted.**

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion for appointment of counsel [#37] is DENIED, and her motion to proceed without payment of costs [#38] is DENIED as moot, because she has already been granted leave to proceed in forma pauperis.

IT IS FURTHER ORDERED that plaintiff shall, no later than **December 11, 2007** file a second opposition to defendants’ motion for summary judgment.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 30th day of November, 2007.